

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 98-SIT-2
)	
Blythe Energy, LLC)	
Request for Jurisdictional)	
Determination)	
)	

Committee Hearing

California Energy Commission
1516 Ninth Street
First Floor Hearing Room A
Sacramento, California 95814

Tuesday, September 29, 1998
2:05 P.M.

Reported By: Janene R. Biggs, CSR No. 11307

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1 P R O C E E D I N G S

2 TUESDAY, SEPTEMBER 29, 1998

3 SACRAMENTO, CALIFORNIA 2:05 P.M.

4 (Petitioner's Exhibits Numbers 1, 2,

5 and 3 were marked for identification.)

6 COMMISSIONER LAURIE: Gentlemen, good

7 morning -- ladies and gentlemen, good morning. My name

8 is Robert Laurie, Presiding Member of the Siting

9 Committee.

10 To my right is Susan Gefter who's the

11 Hearing Officer.

12 To Ms. Gefter's right is

13 Commissioner David Rohy, vice chairman of the

14 Commission, my cohost on the Siting Committee.

15 A And to Commissioner Rohy's right is

16 Bob Eller, Commissioner Rohy's advisor on these issues.

17 Today's meeting is for the purpose of

18 hearing the petition for jurisdictional determination,

19 as further expressed by Ms. Gefter, as she will proceed

20 to talk about some basics with you, some of which you

21 may already be acquainted.

22 Ms. Gefter, what I would ask is that perhaps

23 you give a little discourse about the procedure you're

24 going to follow, and then we'll be interested in some

25 introductions.

26 Let me ask first if Commissioner Rohy has

1 any comments at this time?

2 COMMISSIONER ROHY: I have no comments.

3 MS. GEFTER: Before we proceed, I'd like the
4 parties to introduce themselves for the record, so that
5 we have who's here.

6 MR. GRATTAN: Certainly. I'm John Grattan,
7 and I'm counsel to this project, at least for this
8 hearing, and I have with me Mr. Robert Looper from
9 Blythe Energy and from the Summit Energy Group.

10 And I also want to introduce some folks
11 seated behind us. They are from Greystone, which is
12 the engineering firm which is working on this project,
13 and Mr. Jeff Harvey -- there he is -- and
14 Mr. John Forsythe.

15 Thank you.

16 MS. GEFTER: And the staff, would you
17 introduce yourselves?

18 MR. MUNDSTOCK: I'm David Mundstock,
19 attorney for Energy Commission Staff.

20 MR. HOFFSIS: Jim Hoffsis.

21 MS. GEFTER: And I think any members of the
22 public, we'd just like you to identify yourselves for
23 the record. We have some representatives here from
24 Three Mountain.

25 MR. TOTH: Yes. My name is Less Toth. I'm
26 with Three Mountain Power Project.

1 MR. WASHINGTON: Andrew Washington.

2 MS. GEFTER: And we have a representative
3 from SBGD here also. Would you introduce yourself?

4 MS. FLEMING: Pat Fleming. Just an
5 interested observer.

6 MS. GEFTER: Thank you. I'm going to
7 describe the background here, why we are here for this
8 hearing. This is background for the record.

9 On July 22nd, 1998, Blythe Energy filed a
10 petition for jurisdictional determination. Under
11 Public Resources Code Section 25540.6. The petition
12 requests determination from the Commission that the
13 Blythe Energy Power Plant Project is exempt from the
14 Notice of Intention, or NOI requirements, Public
15 Resources Code Section 25502.

16 The petition contends that Blythe Energy's
17 project is a market based response to formation of the
18 California Power Exchange, which solicits energy bids
19 on an hourly basis. The proposed project will be
20 operated to sell all or some of its output to the
21 California Power Exchange.

22 In accordance with Section 1232 of the
23 Commission's regulations, this committee sent a notice
24 of the hearing and a copy of the petition to the
25 individuals, organizations, and businesses identified
26 as interested parties in the petition, as well as to

1 other entities who have indicated an interest in the
2 proceeding.

3 The notice originally scheduled the hearing
4 for September 14th, 1998. However, upon petitioner's
5 request, the hearing date was rescheduled for today,
6 September 29th.

7 In the notice we directed all entities
8 intending to participate file written statements
9 explaining their positions by September 8th, 1998.

10 The notice also directed petitioner to
11 provide responses to several inquiries regarding its
12 assertion that the proposed project is a result of
13 competitive solicitation or negotiation relative to the
14 California Power Exchange. The petitioner requested an
15 extension of one day to file its responses, and
16 submitted its responses on September 9th. Staff filed
17 a statement on September 8th.

18 The purpose of today's hearing is to provide
19 a public opportunity to discuss the issues raised in
20 the petition and to receive evidence from the parties
21 in support of their positions.

22 If there is no objection, the Committee will
23 receive this evidence the today.

24 Hearing no objections, we'll go forward.

25 The procedure that we would like to follow
26 today is to have the the parties mark and identify

1 their documentary submittals for the record before we
2 begin taking testimony. Then we will proceed in the
3 following sequence:

4 First we'll take petitioner's presentation.
5 Then staff will have the opportunity to cross-examine
6 the petitioner. Then staff will make a presentation,
7 and the petitioner will have an opportunity to
8 cross-examine, and then we'll take comments from the
9 public if there are any.

10 At this point if the Committee has no other
11 questions or comments, we will begin with
12 Blythe Energy's presentation, asking first you identify
13 your exhibits for the record and then move for
14 admission as appropriate during your presentation.

15 Mr. Grattan, please.

16 MS. GEFTER: Thank you.

17 Exhibit 1 is the petition of Blythe Energy,
18 dated July 22nd.

19 Exhibit 2 is the response to the Committee's
20 questions, dated September 9th.

21 And Exhibit 3 will be the resume of
22 Robert Looper of Blythe Energy and the Submit Energy
23 Group.

24 MS. GEFTER: Have you given a copy of that
25 resume to staff, and do you have copies for the
26 members?

1 MR. GRATTAN: I've given copies to the court
2 stenographer, and I'd be pleased to distribute them to
3 staff now if I could get them from the court
4 stenographer.

5 THE REPORTER: They're right there
6 (indicating).

7 MR. GRATTAN: Anyone else who would like a
8 copy?

9 MS. GEFTER: Yes, the Committee would like
10 copies.

11 Actually, I was referring just to the
12 resume. We do have copies of the other documents.

13 MR. GRATTAN: Oh, you do? Okay.

14 MS. GEFTER: Thank you.

15 Mr. Grattan, would you like to proceed with
16 your presentation at this point, and if no one has
17 objection to the admission of these documents into
18 evidence, you can move to have them admitted at this
19 point.

20 MR. GRATTAN: Very well.

21 I would like to move admission of these
22 documents.

23 MS. GEFTER: Any objection?

24 MR. MUNDSTOCK: No objection.

25 MS. GEFTER: Exhibits 1, 2, and 3 submitted
26 by the petitioner are now admitted into the record.

1 (Petitioner's Exhibits Numbers 1, 2,
2 and 3 were entered into evidence.)
3 MR. GRATTAN: I would like to call to the
4 witness stand Mr. Robert Looper of Blythe Energy --
5 MS. GEFTER: We could have him --
6 MR. GRATTAN: Yes.
7 MS. GEFTER: -- have the reporter swear --
8 MR. GRATTAN: Swear him in?
9 MS. GEFTER: Yes.
10 ROBERT LOOPER, P.E.,
11 a witness in the above-entitled action, who being first
12 duly sworn by the court reporter, was thereupon
13 examined and testified as follows:
14 THE WITNESS: I do.
15 EXAMINATION BY MR. GRATTAN
16 Q BY MR. GRATTAN: Mr. Looper, before we
17 begin, maybe you can tell us a little bit -- you
18 submitted a resume here -- if you could tell us a
19 little bit about your professional history, your role
20 in the development of the Blythe Energy Project.
21 A Thank you, John.
22 And I'd like to also before we start give
23 the Committee a thank you for indulgence for our
24 extension for missing our first -- basically it was my
25 schedule that was conflicted there, and I appreciate to
26 have the opportunity today to come before you.

1 My name is Robert Looper, and I am a
2 vice president of Summit Energy Group. I'm also
3 president of Summit Engineering, an affiliate of Summit
4 Energy Group.

5 You'll notice that Blythe Energy, LLC is a
6 limited liability corporation. It is 100 percent owned
7 by Summit Energy Group, and that is my status, why I'm
8 here before you today.

9 I am a project engineer type of person by
10 background. I've been in the business for only 20
11 years and have been involved in the development of
12 somewhere over 20 power projects ranging in size from
13 5 megawatts all the way up to 700 megawatts.

14 My background here on this project today is
15 basically as project manager for Blythe Energy, LLC. I
16 will be overseeing the development, the permitting,
17 putting together the contracts for construction, for
18 operation, procurement of gas and sale of electricity
19 for the project.

20 Q And Mr. Looper, did you prepare, or have
21 prepared under your direction the responses to
22 comments -- excuse me, the responses to the Energy
23 Commission's comments, and it was dated September 9th,
24 1998?

25 A Yes, I did.

26 Q Very well. And are you prepared today as a

1 witness to adopt those responses to comments as your
2 testimony?

3 A Yes, I am.

4 Q That is your testimony?

5 A That is correct.

6 Q Could you care, for the record, to summarize
7 what that testimony comprises?

8 A I'd like to go in, I guess, a little bit of
9 an overview and give the members some background here
10 on Blythe Energy, LLC, what the project is about and
11 how it was sited, and how it came before you here
12 today.

13 Blythe is a product of Summit Energy Group's
14 development effort for power projects in the United
15 States. We have currently over 1,000 megawatts under
16 construction. We are a very significant player in
17 the -- what has been termed in the past, the IPP
18 market, the Independent Power Producer market. Our
19 Bridgeport project will be going online combined cycle
20 next year. It went online simple cycle this year.
21 It's a very large, one of the very first -- what will
22 be classified merchant plants in the United States to
23 come online. It is a gas fired combined cycle facility
24 located in Bridgeport, Connecticut.

25 The Summit Energy Group was the principle
26 developer on that project. Other stake holders include

1 Duke Energy and United Illuminating.

2 That's one of four projects that we
3 currently have under construction throughout the United
4 States. All are gas fire combined cycle facilities.

5 Summit Group in its development efforts did
6 quite a comprehensive search to target the Blythe
7 Energy project location. There are some key reasons
8 why this project is located where it is. Fairly remote
9 in the state.

10 Number one, of course, is the presence of
11 interstate high pressure natural gas, the El Paso gas
12 lines which flow east to west from the area.

13 Two, and no insignificant issue, is the fact
14 that the Blythe substation is located immediately
15 there. The location of 5, 161 KD lines that
16 interconnect with a variety of players. The substation
17 is owned by the Western Area Power Administration.

18 I'd like to add a little bit of comment on
19 that and maybe give you an idea of the significance of
20 our play in Blythe. We were at a meeting of
21 stakeholders with the Western Engineering Power
22 Administration last week that was held down in Yuma.
23 The purpose of that meeting, there was some 45
24 representatives, utilities and irrigation districts
25 there, was to resolve the problem of having future
26 loads and demand in the Blythe/Yuma area. There is not

1 only transmission constraints in the area, but there is
2 a growing market in that particular area. It is going
3 to be unable to be served in the near future.

4 The Blythe project was brought up at the
5 meeting and was identified, and it was, of course, one
6 of the solutions to that problem. That's one of the
7 major reasons why we're there. It does solve a
8 particular need in terms of transmission constraint as
9 well as meeting local loads, as well as having access
10 to the Power Exchange.

11 In addition to the electricity
12 interconnection that's there, Blythe has a significant
13 amount of water available, which is necessary for power
14 plants. It is located in the Colorado River flood
15 plane area there, where there's ample surface as well
16 as ground water available. It is also an attainment
17 area, relative to air quality, and from a permanent
18 standpoint, Summit Energy Group has never initiated a
19 project that has not successfully permeated and brought
20 towards its completion, and we don't expect Blythe to
21 be one such project. So we're very careful in our
22 research in looking at what the constraints might be to
23 ultimate successful development of the project there.

24 I think in terms of the configuration of the
25 Blythe project, we provided you some additional
26 information on that in the response to the question,

1 but I want to emphasis just a couple of things about
2 that.

3 This will be gas fired only. It will be
4 very clean burning. It will be using the latest
5 advanced technology of these type of facilities which
6 we have implemented on our other projects.

7 This is the type of project that you have
8 seen before you in the past and you will see before you
9 in the future using natural gas and providing a clean
10 burning, reliable energy source into the market.

11 Q One further point of clarification,
12 Mr. Looper. Is this project -- you've given us the
13 site selection process and the configuration both in
14 your testimony and summary of it, as a gas fired
15 project. Is it fair to say that it is your testimony
16 this project was conceived and is being developed as a
17 result of the creation and operation of the PX,
18 California Power Exchange?

19 A That's a fair assessment. The Power
20 Exchange is a critical component to the success of any
21 type of merchant plant in this area.

22 I'd also like to add that in addition to the
23 Power Exchange, there is also the emerging Desert Star,
24 which will be the counterpart ISO in the Arizona
25 market, and the proximity of this project is no secret.
26 It lies on this border, basically, and is accessible to

1 not only California markets, but the Arizona markets,
2 so it is very strategically positioned.

3 MR. GRATTAN: That concludes the direct
4 testimony. The witness is available for
5 cross-examination.

6 MS. GEFTER: I'll ask, David, if you have
7 any questions of the petitioner?

8 MR. MUNDSTOCK: We have no questions.

9 MS. GEFTER: Commissioner Rohy?

10 QUESTIONS BY THE COMMITTEE

11 COMMISSIONER ROHY: I'm sure we'll get into
12 it more as the project proceeds, but when you said,
13 "the latest advanced technology for emission control,"
14 can you say a word or two about that?

15 THE WITNESS: Sure. I mean, this project
16 will be subject to Bact, B-A-C-T, analysis relative to
17 EPA Region 9, which has jurisdiction in California and
18 the local air pollution control authority. We will be
19 subject to Bact just like every gas fired plant is
20 subject to Bact, and Bact is changing dynamically day
21 by day, and so when we get around to finally submitting
22 the air permit, there may be some additional technology
23 that's available to us then that's not today, but
24 currently this would be a project that would use
25 selective catalytic reduction as the primary source for
26 nox reduction, which is the primary consideration for

1 pollutant here.

2 It also is going to use combustion turbine
3 technology, where the burning of the natural gas is
4 what we call dry low nox combustion, not using water to
5 reduce the nox. It's the investment in that technology
6 from the turbine manufacturer with the investment in
7 the back-end cleaning of emissions that is currently
8 state of the art.

9 COMMISSIONER ROHY: Thank you.

10 COMMISSIONER LAURIE: Mr. Looper, could you
11 get your petition in front of you please? Your
12 petition. Do you have your petition?

13 THE WITNESS: Yeah.

14 MR. GRATTAN: Yes.

15 COMMISSIONER LAURIE: No, no, no. I have
16 it.

17 MR. GRATTAN: Oh.

18 COMMISSIONER LAURIE: I want to make sure
19 Mr. Looper has it, because I wish to refer to it.

20 Sir, refer to page 1, second paragraph. If
21 you could just read that please.

22 THE WITNESS: You want me to read that?

23 COMMISSIONER LAURIE: Read it to yourself to
24 familiarize yourself.

25 THE WITNESS: Okay.

26 COMMISSIONER LAURIE: Making reference there

1 to the first sentence of that paragraph, you make
2 reference to both the High Desert and Calpine projects,
3 where you say, "This request," which is basically
4 similar to the others, is it -- is your reason for
5 equating this project with the others, is that -- is it
6 your position that the other projects set a precedent
7 for this complication?

8 MR. GRATTAN: Yes.

9 COMMISSIONER LAURIE: And are you referring
10 to a legal precedent, Mr. Grattan?

11 MR. GRATTAN: Yes, it is. I believe it is a
12 precedent. It is not -- it is not -- this case is
13 obviously before a committee in the Energy Commission.
14 We don't believe because we allege that this plant is a
15 merchant plant that there is an irrebuttable
16 presumption, but I believe this body like any
17 adjudicatory body has a -- has an obligation to follow
18 precedent unless there are particular facts which lead
19 the other way.

20 COMMISSIONER LAURIE: And is it your
21 position that there are insufficient facts in this case
22 to distinguish it from the others so that for all
23 practical purposes we are, by law, believed to follow
24 our decision making in previous cases?

25 MR. GRATTAN: The answer to that -- I act
26 with a little trepidation when I try to tell a body

1 that is in a judicial function that it has no
2 discretion, but I believe that precedent --
3 particularly the precedent in the La Paloma case -- is
4 extremely relevant and perhaps compelling to your
5 decision here today.

6 COMMISSIONER LAURIE: I'm trying to
7 determine whether you feel we are legally obligated to
8 act in a certain manner in light to our previous
9 decisions.

10 MR. GRATTAN: I feel you are -- I feel you
11 have a legal duty to follow precedent. You also have
12 the duty to examine facts.

13 COMMISSIONER LAURIE: Mr. Looper, talk to me
14 about your business entity. Are you a private for
15 profit corporation?

16 THE WITNESS: Yes, we are.

17 COMMISSIONER LAURIE: Is the corporation in
18 any way partially owned or subsidized or in any other
19 manner financed by the rate payers of this state?

20 THE WITNESS: No, it is not.

21 COMMISSIONER LAURIE: Do the rate payers of
22 this state bear any potential liability for the
23 financial liabilities of the corporation?

24 THE WITNESS: No, they don't.

25 COMMISSIONER LAURIE: I have no more
26 questions, Madam Hearing Officer.

1 MS. GEFTER: I have a question regarding the
2 timetable for the filing AFC in this case. What is the
3 timetable for developing the project?

4 THE WITNESS: The project is now scheduled
5 for a May, June, 2001 online date, which is a very
6 aggressive schedule, knowing that we're roughly a year
7 in this process. However, from the timely standpoint,
8 we believe we can meet that schedule. That is our --
9 we would proceed very aggressive with the project
10 development and try to meet that date.

11 MS. GEFTER: In choosing the site in Blythe,
12 had you considered alternative sites down in that area?

13 A Yes. The selection of the Blythe area is
14 really compelling because of the location of the
15 substation, which is eight miles west of the city of
16 Blythe. However, we did have alternative sites that we
17 considered in and around the area, but being within
18 half a mile of the high pressured gas pipeline and near
19 the substation is very compelling at that location.

20 MS. GEFTER: Finally, the technology that
21 you expect to employ in this particular project, is it
22 the same technology that you used in your Connecticut
23 project that's coming online shortly?

24 THE WITNESS: Yes, it is.

25 MS. GEFTER: Okay.

26 COMMISSIONER ROHY: Just in line with the

1 questions that both parties appeared to just ask, is
2 the technology that you're employing similar to those
3 employed by High Desert and Calpine?

4 THE WITNESS: I don't know exactly the final
5 ultimate solution at High Desert and Calpine, because
6 I'm not familiar with the day to day. They've been
7 changing it --

8 COMMISSIONER ROHY: To the best of your
9 knowledge.

10 THE WITNESS: To the best of my knowledge,
11 the combustion portion of the technology will be very
12 similar, meaning that the advanced burning -- the
13 technology the we consider to be the F or G technology
14 relative to combustion turbines. The back-end
15 technology, in terms of the cleaning up of the
16 emissions may be different, because, of course, they
17 are in a nonattainment area, and they are subject to a
18 different criteria in terms of air permitting that will
19 be the Blythe site. So they are subject to a different
20 standard that we are, and therefore the backend might
21 be different on the air pollution control equipment.

22 That's all I have.

23 MS. GEFTER: I have a further question
24 regarding the Power Exchange.

25 What is the petitioner's intent with regard
26 to becoming a registered member of the Power Exchange?

1 How do you expect to sell your power on the California
2 Power Exchange?

3 THE WITNESS: The project entity is a sole
4 purpose project energy, Blythe Energy, LLC, and the
5 intent there is very specific. It is a generator, and
6 it is intended to enter into relationships for the
7 procurement of gas and sale of electricity, and we'll
8 be doing that, negotiating with several of the
9 marketers there that are contracted to do business in
10 Power Exchange and other markets in the southwest.

11 MS. GEFTER: Is there anything you could
12 tell us about any progress in those negotiations at
13 this point?

14 THE WITNESS: I think our negotiations there
15 are well along to the point where we do have
16 relationships established with these organizations, but
17 they are proprietary.

18 MS. GEFTER: Any further questions from our
19 Committee?

20 We'll ask staff if you have a presentation
21 at this point.

22 MR. MUNDSTOCK: Our one exhibit would be the
23 Energy Commission's staff statement that we docketed on
24 September 8th.

25 MS. GEFTER: That would be marked as
26 Exhibit 4.

1 (Staff's Exhibit Number 4 was marked
2 for identification.)
3 MR. MUNDSTOCK: And our witness is
4 Jim Hoffsis.
5 MS. GEFTER: If there's no objection to
6 moving your staff statement into evidence, you could do
7 so at this time.
8 MR. MUNDSTOCK: I would so move.
9 MS. GEFTER: Any objection?
10 Looks like there's no objection from
11 Mr. Grattan; is that correct?
12 MR. GRATTAN: No objection at this time.
13 MS. GEFTER: Okay. We'll move Exhibit 4
14 into evidence at this time.
15 (Staff's Exhibit Number 4 was entered
16 into evidence.)
17 MS. GEFTER: You may proceed.
18 MR. MUNDSTOCK: Will you swear the witness?
19 *JAMES HOFFSIS,
20 a witness in the above-entitled action, who being first
21 duly sworn by the court reporter, was thereupon
22 examined and testified as follows:
23 THE WITNESS: Yes.
24 DIRECT EXAMINATION BY MR. MUNDSTOCK
25 MR. MUNDSTOCK: Mr. Hoffsis, did you prepare
26 or help prepare the analysis dated September 8th, 1998,

1 that is part of the Commission's staff statement?

2 A Yes, I did.

3 Q Would you please summarize your analysis?

4 A The testimony itself is already very brief,
5 so my summation must necessarily be even shorter.

6 The testimony addresses the issue whether or
7 not the Blythe project is the result of a competitive
8 solicitation and negotiation.

9 I conclude that it is, and that it can be
10 exempted from the AOI process.

11 MR. MUNDSTOCK: Thank you. Staff has
12 nothing further.

13 MR. GRATTAN: No cross.

14 MS. GEFTER: Commissioners, any questions?

15 QUESTIONS BY THE COMMITTEE

16 MS. GEFTER: I would like to ask Mr. Hoffsis
17 to expand upon that conclusion. What led you to that
18 conclusion?

19 THE WITNESS: The question turns in my mind
20 on two issues. One is whether or not the Power
21 Exchange, which petitioner has asserted that they are
22 willing or intending to sell power into, is indeed a
23 competitive solicitation and negotiation.

24 This is the same issue that was examined in
25 the La Paloma case. The petitions in regard to this
26 issue are virtually identical. In the La Paloma

1 decision that was issued about six weeks ago, the
2 Commission did find in the affirmative that the PX
3 constitutes the same competitive solicitation. So I
4 think that issue is dispensed with.

5 The second issue is whether or not the
6 Blythe project is indeed -- is being proposed in
7 response to the formation of the Power Exchange.
8 Petitioner asserts that it is, and I think, as I
9 indicated to the La Paloma decision -- or La Paloma
10 case, there exists little, if any, basis for refuting
11 the claim, and on that basis I think we are left with
12 accepting the claim.

13 COMMISSIONER ROHY: Mr. Hoffsis, it's my
14 recollection that the applicant said that they may be
15 selling power into the Arizona area, specifically the
16 Yuma area would share the power, as I recall the
17 statement. Did that in any way enter into your
18 decision, or statement that you wrote bringing forth as
19 evidence today?

20 THE WITNESS: Not really. I guess I'd
21 respond to that, though, by offering two additional
22 thoughts for consideration. One is that the statute
23 doesn't reference selling all of the power or a portion
24 of the power into what we'd regard as a competitive
25 solicitation, number one.

26 Number two, it doesn't say anything about

1 where that competitive solicitation must originate. So
2 I think even given this additional information, while
3 not having examined the issue of whether or not
4 Desert Star is a competitive solicitation, there's at
5 least a prima facie case that it probably is, and even
6 short of that the statute does refer to competitive
7 solicitation or negotiation, and I think it's a --
8 there's an extremely high probability that any power
9 that comes from this plant that is not sold directly
10 into the California Power Change will be sold to
11 somebody, Desert Star or elsewhere, as a result of some
12 sort of negotiations.

13 So, I think we can take comfort that the
14 compliance with the statute is covered in all respects.

15 COMMISSIONER LAURIE: Mr. Hoffsis, is it
16 your understanding -- strike that.

17 Are you aware of Commission policy that it
18 is the policy of this Commission to address these
19 applications for exemptions on a case-by-case basis?

20 THE WITNESS: Yes, I'm aware of that.

21 COMMISSIONER LAURIE: With that recognition,
22 do you wish to offer any modified comment as to rely on
23 the decision of the La Paloma case? In other words,
24 you've heard from the applicant, and I may be
25 overstating this, but that it is applicant's view that
26 in light of precedent in earlier cases, that we have

1 limited parameters in which to act in this case. Do
2 you share that view?

3 MR. MUNDSTOCK: Commissioner, can I try that
4 one on the legal basis?

5 COMMISSIONER LAURIE: Yes, thank you.

6 MR. MUNDSTOCK: I think the applicant and
7 the staff would not deny the Commission the potential
8 it may change its policy at some future date. The
9 Commission has established its policy, and the
10 applicant would follow its policy. Staff concurs.

11 COMMISSIONER LAURIE: Thank you,
12 Mr. Mundstock. I appreciate your response, and I have
13 no further questions, Madam Hearing Officer.

14 MS. GEFTER: Are there any questions between
15 the parties at this point?

16 MR. GRATTAN: I have brief redirect, if
17 that's an appropriate time for it.

18 MS. GEFTER: Yes.

19 REDIRECT EXAMINATION OF MR. LOOPER BY MR. GRATTAN

20 Q BY MR. GRATTAN: Mr. Looper, the Committee
21 has asked you questions about the proposed technology
22 for the project and has compared to technologies
23 proposed by other applicants. Could you address that
24 question in the context of the project configuration?

25 A John felt I needed to clarify was, this is a
26 combined cycle project, meaning that it is for base

1 load operation, meaning, this is responsive to the
2 market needs, and in particular, is tailored for the PX
3 solicitation. And so just to make certain that we're
4 clear that this is a combined cycle project, I think
5 that you have seen that before you.

6 Q And one further question.

7 I wonder if you could perhaps expand a
8 little bit on your response to the Committee's question
9 regarding registration as a trader or as a marketer
10 before the PX, and maybe you could tell us a little bit
11 about what the requirements are to the attract business
12 before the PX and perhaps why it's not a prudent
13 business move for a project developer to register and
14 go down that path.

15 A I think it's actually fairly easy to
16 register and to do business on the Power Exchange. It
17 is a little bit more complicated to actually do
18 business on the Power Exchange in high quantity. Most
19 of that has to do with the expertise and the credit
20 worthiness of the entity that is actually doing those
21 transactions, and in the case of the Power Exchange,
22 there are numerous people who have signed up to do
23 business on the Power Exchange. There are many
24 entities who are conducting large amounts of business
25 on the Power Exchange, and these entities are entered
26 into contracts, such as ourselves, to actually market

1 their power in the Power Exchange, and from our
2 prospective, that is a prudent way to do business
3 within the California PX.

4 MR. GRATTAN: Thank you. That's all.

5 MS. GEFTER: Anymore questions from the
6 staff?

7 MR. MUNDSTOCK: No.

8 MS. GEFTER: One further question.

9 From the exhibits that were submitted from
10 petitioner, it's unclear how many megawatts you intend
11 to use.

12 THE WITNESS: The project as proposed is
13 400 megawatts.

14 MR. GRATTAN: I believe that's mentioned in
15 both the petition and in response to one of the
16 questions. Question 7 or 8, I believe.

17 MS. GEFTER: Are there any comments from
18 members of the public at this point?

19 Okay. Hearing no further comments, we can
20 move towards conclusion here.

21 What we will do after concluding this
22 hearing is prepare a Committee proposed decision, which
23 will be sent to the parties for review and comment.

24 At this point we have a tentative business
25 meeting date of November 4th. We will confirm that
26 once we send out copies of the proposed decision to

1 everyone.

2 And if there are no further comments at this

3 point, we can adjourn. Any further comments? No.

4 We can adjourn.

5 COMMISSIONER LAURIE: Thank you.

6 MR. GRATTAN: Thank you, very much. Time

7 end two 42:00 p.m.

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SOLANO)

I, JANENE R. BIGGS, a Certified Shorthand
Reporter, licensed by the state of California and
empowered to administer oaths and affirmations pursuant
to Section 2093 (b) of the Code of Civil Procedure, do
hereby certify:

That the proceedings were recorded
stenographically by me and were thereafter transcribed
under my direction via computer-assisted transcription;

That the foregoing transcript is a true
record of the proceedings which then and there took
place;

That I am a disinterested person to said
action.

IN WITNESS WHEREOF, I have subscribed my
name on October 2, 1998.

Janene R. Biggs
Certified Shorthand Reporter No. 11307

